

REMARKS

I. Disposition of Claims

Claims 1-5, 7-9, and 11-54 are pending in the application; Claims 1-5, 7-9, and 11-54 stand rejected; Claims 23-38 and 43-50 are withdrawn from consideration.

II. Claim Rejections - 35 USC §102(b); Anticipated by Kan et al. (USPN 5,541,705)

Claims 11-15, and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kan et al. (USPN 5,541,705).

Claim 11 is an independent claim. Claims 12-15 and 22 are dependent claims that refer to Claim 11. Claim 11 has been amended to include a second sensor to track a direction of sight of the receptor, wherein the direction of sight is a function of the dynamic movement of the receptor. Support for this amendment is found in the present application's specification on page 7, lines 13-15, page 24, lines 22-23, and pages 25-26. Claim 11 has also been amended to include additional limitations relative to the controller. Specifically, the controller receives direction of sight information from the second sensor and uses the direction of sight and direction of the image to define an active and passive zone. The controller then adjusts the opacity of one or more cells of the matrix based upon the intensity of the redirected incident light information and whether the calculated angle corresponds to the active zone or the passive zone. Support for this amendment is found in the present application's specification on page 30, starting on line 4, through page 32, ending on line 17.

MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference.” *Verdegall Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed.Cir.1987). “The identical invention must be shown in as complete detail as contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

The Applicants respectfully argue that Claim 11, as amended, and Claims 11-15 and 22 through dependency do not anticipate Kan et al. ‘705 because Kan et al. ‘705 does not disclose every limitation recited in the amended claim. Specifically, Kan et al. ‘705 does not disclose a sensor to track the direction of sight of the receptor, wherein the direction of sight is a function of the dynamic movement of the receptor. Further, Kan et al. ‘705 does not define an active zone and passive zone using an angle calculated by the direction of sight and direction of the image. Finally, Kan et al. ‘705 does not adjust the opacity of one or more cells of the matrix based upon the intensity of the redirected incident light information and whether the calculated angle corresponds to the active zone or the passive zone.

Therefore, Applicants respectfully request reconsideration of the §102(b) rejection of Claims 11-15 and 22.

III. Claim Rejections - 35 USC §102(b); Anticipated by Barnes (USPN 5,671,035)

Claims 39-42 stand rejected under 35 U.S.C. 102(b) as being anticipated by Barnes (USPN 5,671,035). Claim 39 is an independent claim. Claim 40 is a dependent claim that

refers to Claim 39, while Claims 41-42 are dependent claims that refer to Claim 40.

Claim 39 has been amended as a method claim to include additional steps whereby an active zone and passive zone are defined from information supplied by a first and second sensor. Further, adjusting the opacity of one or more cells of the shading matrix is based on the light intensity information as compared to the predetermined threshold intensity value and whether a third angle defined by the direction of sight and direction of the light is within the active or passive zone.

Claims 40-42 have been cancelled.

The Applicants respectfully argue that Claim 39, as amended, does not anticipate Barnes '035 because Barnes '035 does not disclose every limitation as recited in the amended Claim 39. Specifically, Barnes '035 does not differentiate between a passive zone and an active zone. Barnes '035 does adjust the opacity of his shading medium using the direction of light and the receptor's line of sight. However, Barnes '035 simply takes the direction of the light and the receptor's line of sight to effectively calculate an angle. (ref: '035, FIG. 5 and Col. 8, lines 53-63) Barnes '035 does *not* determine if his angle falls within an active or passive zone. As stated in the Applicants' specification, further accuracy is required as to the final shape, darkness, and other characteristics of a shading medium if a light source falls in the active zone. (ref: 09/988,855, page 30, lines 17-19) Conversely, less accuracy is required if a light source falls in the passive zone. (ref: 09/988,855, page 30, lines 14-17) Thus, efficiencies can be gained if a control mechanism differentiates between an active and a passive zone. (09/988,855, page 31, lines 5-13) Simply stated, Barnes '035 does not recognize this solution

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because Barnes does not recognize the scenario addressed by the Applicants.

Therefore, Applicants respectfully request reconsideration of the §102(b) rejection of Claims 39.

IV. Claim Rejections - 35 USC §103(a)

1. Claims 16-21

Claims 16-21 stand rejected under §103(a) as being unpatentable over Kan et al. '705. Claims 16-21 are dependent claims that refer to Claim 11 either directly or indirectly. Claim 11 stands rejected under §102(b) over Kan et al. '705. As stated earlier, Claim 11 has been amended and arguments have been provided taking the position that the currently amended Claim 11 is not anticipated by Kan et al. '705.

MPEP §2143.03 states:

“To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). ... If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).”

First, the same arguments used in Section II of this Remarks section are incorporated by reference herein. Second, Applicants argue that Kan et al. does not teach or suggest determining an angle from the direction of the bright light source and the direction of sight of the receptor as in the currently amended Claim 11. Third, Applicants argue that Kan et al. does not teach or suggest defining an active and passive zone equivalent to a first and second

predetermined range of angles, respectively as in currently amended Claim 11. Fourth, Applicants argue that a *prima facie* case of obviousness is not established for Claim 11 via Kan et al. Fifth, since Claims 16-21 are dependent on Claim 11, either directly or indirectly, then it follows via the logic of MPEP §2143.03 that a *prima facie* case of obviousness is not established for Claims 16-21. Hence, the Applicants argue that a *prima facie* case of obviousness is not established for Claims 16-21 because all claim limitations are not taught or suggested by Kan et al. '705 for Claims 16-21 via their dependency to currently amended Claim 11.

Therefore, Applicants respectfully request reconsideration of the §103(a) rejection of Claims 16-21 as being unpatentable over Kan et al. '705.

2. Claims 1-5 and 7-9

Claims 1-5 and 7-9 stand rejected under §103(a) as being unpatentable over Kan et al. '705 in view of Barnes '035. Claims 2-5 and 7-9 are cancelled in this submission. Claim 1 is currently amended. Applicants offer the following comments in response to the Examiner's statement in the August 18, 2003 Office Action.

First, all claim limitations must be taught or suggested to establish a *prima facie* case of obviousness (ref: MPEP §2143.03). *As currently amended*, Claim 1 distinguishes between an active zone and a passive zone wherein these zones are defined based on a range of angles defined by the direction of sight of the receptor and direction of the bright light source. For purposes herein, the actual angle defined by the direction of sight of the receptor and direction

of the bright light source is referred to as β . The Applicants have identified an issue wherein the opacity pattern of the matrix can be adjusted partially based on whether β is within the active or passive zone. Specifically, if β is small, the shape, darkness, and other characteristics of the shading pattern on the matrix requires greater accuracy and sensitivity. Conversely, if β is large, less accuracy and sensitivity is required in the shading pattern. (ref: 09/988,855, page 30, lines 13-19) The Examiner recognized that Kan et al. '705 does *not* disclose utilizing a direction of sight. (ref: August 18, 2003 Office Action, Page 5, Section 7) However, the Examiner recognized that Barnes '035 does teach using the direction of sight and direction of the bright light source to partially adjust the location of the shading pattern on his matrix. However, Barnes '035 does *not* differentiate, either through a teaching or suggestion, between an active and passive zone. Barnes '035 does *not* recognize the issue wherein efficiencies in pattern size, darkness, or other characteristics can be obtained via defining an active and passive zone. Barnes '035 teaches the same shading pattern process for his matrix in all cases. (ref: '035, Col. 8, lines 53-63) Thus, since Barnes '035 does not teach or suggest an active or passive zone, a *prima facie* case of obviousness is not established for Claim 1 as amended.

Second, there must be a basis in the art for combining or modifying the references. MPEP §2143.01 provides:

“The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination. *In re Mills*, 916 F2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)”

Simply stated, Kan et al. and Barnes contain no teaching, suggestion, or motivation for

utilizing an active and passive zone in their respective control schemes. A detailed evaluation of Kan's control scheme (*ref.* '705, Col. 2, line 66 to Col. 3, line 20) and Barnes' control scheme (*ref.* '035, Col. 8, line 45 to Col. 9, line 10) reveals no teaching, suggestion, or motivation for defining *any* range for an angle between the direction of a bright light source and a direction of sight. Kan et al. doesn't even disclose an angle analogous to Applicants' " β " angle. Barnes does disclose an analogous " β " angle. However, nowhere in Barnes is there a recognition of the issue of different opacity characteristics of a shading pattern due to whether Barnes' analogous " β " angle falls within a predetermined range or ranges. Thus, since Kan et al. '705 and Barnes '035 contain no basis for combining or modifying the references, specifically to include an active or passive zone, a *prima facie* case of obviousness is not established for Claim 1 as currently amended.

Third, Applicants respectfully argue that Kan et al. and Barnes do not teach a specific problem or the problem's source as identified by the Applicants. In the historic case of *Eibel Process Co. v. Minnesota & Ontario Paper Co.*, 261 U.S. 45 (1923), the Supreme Court concluded:

"The invention was not the mere use of a high or substantial pitch to remedy a known source of trouble. It was the *discovery* of the source not before known, and the application of the remedy, for which Eibel was entitled to be rewarded in his patent." 261 U.S. at 68 (emphasis added)

Thus, if recognition of the source of the problem is not taught or suggested by the prior art, a rejection for *prima facie* obviousness is defective even if the solution claimed would have otherwise been obvious. In the present application, the Applicants have recognized that certain

efficiencies can be gained by implementing additional logic in their control method. Specifically, the definition of an active and passive zone wherein these zones are ranges associated with the angle between the direction of sight of a receptor and direction to a bright light source. Kan et al. does not teach or even suggest using an angle defined between the direction of sight of a receptor and direction to a bright light source, not to mention the further step of defining an active and passive zone. Barnes does teach using an angle defined between the direction of sight of a receptor and direction to a bright light source, however, nowhere does Barnes teach or suggest further defining an active and passive zone. Further, nowhere does Barnes recognize the general problem of optimizing the final shading pattern. Barnes is concerned with accurate shading patterns relative to a receptor's position in relation to a bright light source. Barnes does not recognize that varying degrees of accuracy in the size and shape of a shading pattern can be effective depending on the analogous β angle. Thus, per the logic in Eibel Process Co., a *prima facie* case of obviousness using the references of Kan et al. '705 in view of Barnes '035 is not established.

Therefore, Applicants respectfully request reconsideration of the §103(a) rejection of currently amended Claim 1 for the above reasons either alone or in any combination.

3. Claim 9

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kan et al. in view of Barnes, and further in view of Horn (USPN 4,848,890). Claim 9 has been cancelled in this submission.

4. *Claims 51-53*

Claim 51-53 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Resnikoff et al. (USPN 6,244,703) in view of Kan et al. Claim 51 is currently amended to include the limitations of Claim 52. Claims 52-54 are cancelled. Applicants offer the following comments in response to the Examiner's statement in the August 18, 2003 Office Action.

First, all claim limitations must be taught or suggested to establish a *prima facie* case of obviousness (ref: MPEP §2143.03). In the August 18, 2003 Office Action, the Examiner states:

“Regarding Claims 51 and 52, Resnikoff et al. disclose (Figures 3A-3C) a method comprising: . . . determining the angle between the source of bright light and the direction of sight of the receptor (Figure 3B and 3C); and adjusting the opacity of at least one cell in a shading matrix (16) based on the angle. *An active zone and passive zone inherently is defined in the scene, since part of the scene is closer to the bright light and part of the scene is farther away from the bright light.*” (emphasis added) (ref: August 18, 2003 Office Action, page 7)

Applicants respectfully disagree with the emphasized portion above for the following reasons. Resnikoff's et al. '703 invention is a calibration apparatus and method. Resnikoff's et al. Figure 3B is presented below for the reader's convenience.

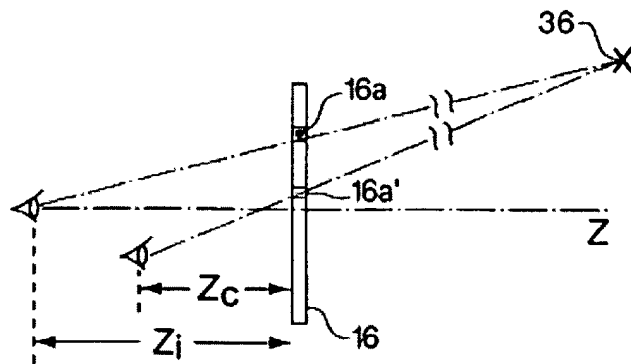
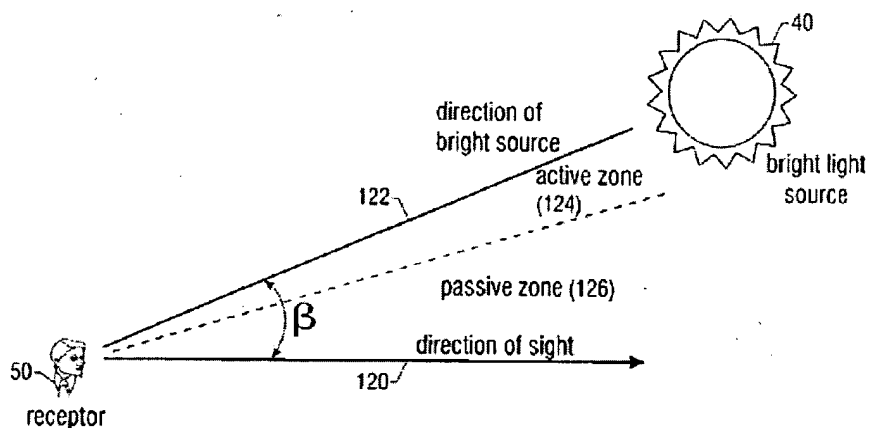


Fig. 3B

Resnikoff et al. '703 Figure 3B

Resnikoff's et al. Figure 3B (and 3C) does *not* disclose an active zone, passive zone, or any combination as disclosed in the present application. Resnikoff et al. is not describing two actual receptors in Figure 3B. Resnikoff et al. is describing an actual receptor location and a phantom or uncalibrated receptor location. In other words, Resnikoff's et al. Figures 3B and 3C are simply illustrating the location of an eye as understood by a processor versus the actual location of an eye. (*ref: '703, Col. 6, lines 32-39*) Thus, Resnikoff et al. '703 is essentially illustrating two different " β " angles, an uncalibrated β angle and an actual (or calibrated) β angle. Resnikoff et al. is *not* distinguishing between an active and passive zone to further control the final shape, darkness, and other characteristics of the shading pattern on his matrix. To reiterate, the Examiner states in the August 18, 2003 Office Action that "*An active zone and passive zone inherently is defined in the scene, since part of the scene is closer to the bright light and part of the scene is farther away from the bright light.*" (emphasis added) The Applicants respectfully disagree with this conclusion. Simply stated, there is no nexus within

Resnikoff's et al. Figures 3B and 3C to connect these illustrations to an active zone, passive zone, or any combination. Resnikoff et al. is not defining or suggesting angle *ranges* for his "β" angle. If anything is *inherent* in Resnikoff's et al. illustrations, it is the fact that the "β" angle is dependent on both the direction of the bright light object and the direction of sight and its value changes accordingly. Not only must there be a teaching or suggestion relative to an active and passive zone, there must also be a teaching or suggestions to use an active and passive zone in a control scheme to adjust the opacity of the resultant shading pattern on a matrix. Both of these limitations are simply not taught or suggested by either Kan et al., Resnikoff et al. or for that matter, Barnes as well. Applicants' Figure 7 is also provided below for the reader's convenience.



Applicants' Figure 7 09/988,855

Applicants' receptor (50) is analogous to Resnikoff's et al. eye. Note that only one receptor is illustrated in Applicants' Figure 7 for the purposes of Figure 7. Also note how an active zone and passive zone are defined as ranges of β. Nowhere does Resnikoff et al. define or even

imply ranges of β . Kan et al. doesn't even teach or suggest an analogous β angle. Thus, nowhere does Resnikoff et al. define or imply an active zone, passive zone, or any combination wherein the active zone and passive zone represent ranges for the β angle. And certainly Resnikoff et al. '703 does not define or imply utilizing an active and passive zone in a scheme to control the shape, darkness, and other characteristics of the resultant shading pattern on a matrix. Resnikoff's et al. invention is simply a technique to calibrate a processor based on a correction angle. Resnikoff's et al. invention is not trying to control a particular shading pattern on a matrix and thus, he doesn't have the same motivation or goals of the Applicants. Since Resnikoff et al. '703 (or for that matter Kan et al. '705) does not teach or suggest all limitations of amended Claim 51, specifically an active and passive zone in a control scheme, a *prima facie* case of obviousness is not established for amended Claim 51.

Second, there must be a basis in the art for combining or modifying the references.

MPEP §2143.01 provides:

"The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination. In re Mills, 916 F2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)"

Simply stated, Kan et al. and Resnikoff et al. contain no teaching, suggestion, or motivation for utilizing an active and passive zone as is specifically required in currently amended Claim 51. A detailed evaluation of Kan's et al. control scheme (*ref*: '705, Col. 2, line 66 to Col. 3, line 20) and Resnikoff's et al. calibration scheme (*ref*: '703, Col. 6, line 17 to Col. 7, line 25) reveals no teaching, suggestion, or motivation for defining *any* range for an angle between the

direction of a bright light source and a direction of sight. Nowhere in either Kan et al. or Resnikoff et al. is there a recognition of the issue of different opacity characteristics of a shading pattern due to whether the " β " angle falls within a predetermined range or ranges. Thus, since Resnikoff et al. '703 and Kan et al. '035 contain no basis for combining or modifying the references, specifically to include an active or passive zone in a control scheme, a *prima facie* case of obviousness is not established for Claim 51 as currently amended.

Third, the Applicants respectfully argue that the Examiner's statement,

"An active zone and passive zone inherently is defined in the scene, since part of the scene is closer to the bright light and part of the scene is farther away from the bright light." (ref: August 18, 2003 Office Action, Page 7)

fails to provide the required findings to support the proposed combination of the prior art references Resnikoff et al. in view of Kan et al. Applicants respectfully argue that the above statement is a conclusory statement that does not establish a genuine issue of material fact. The mere fact that a scene can be closer to a bright light source and farther away from a bright light source does not inherently define an active and passive zone as described by the Applicants in the present application (*ref.* 09/988,855, page 30, line 4 to page 32, line 3). As stated before, the Examiner reaches a conclusory statement without establishing a logical nexus on how he arrived at this statement. When determining obviousness, "the [E]xaminer can satisfy the burden of showing obviousness of the combination 'only by showing some objective teaching in the prior art or individual to combine the relevant teachings of the references.'" *In re Lee*, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002), *citing*

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In re Fritch, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). "Board conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617. "Mere denials and conclusory statements, however, are not sufficient to establish a genuine issue of material fact." *Dembiczak*, 175 F.3d at 999, 50 USPQ2d at 1617, citing *McElmurry v. Arkansas Power & Light Co.*, 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993).

Fourth, Applicants respectfully argue that Resnikoff et al. and Kan do not teach a specific problem or the problem's source as identified by the Applicants. As stated earlier, in the historic case of *Eibel Process Co. v. Minnesota & Ontario Paper Co.*, 261 U.S. 45 (1923), the Supreme Court concluded:

"The invention was not the mere use of a high or substantial pitch to remedy a known source of trouble. It was the *discovery* of the source not before known, and the application of the remedy, for which Eibel was entitled to be rewarded in his patent." 261 U.S. at 68 (emphasis added)

Thus, if recognition of the source of the problem is not taught or suggested by the prior art, a rejection for *prima facie* obviousness is defective even if the solution claimed would have otherwise been obvious. In the present application, the Applicants have recognized that certain efficiencies can be gained by implementing additional logic in their control method. Specifically, the definition of an active and passive zone wherein these zones are ranges associated with the angle between the direction of sight of a receptor and direction to a bright light source. Kan et al. does not teach or even suggest using an angle defined between the direction of sight of a receptor and direction to a bright light source, not to mention the further

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step of defining an active and passive zone. Resnikoff et al. does teach using an angle defined between the direction of sight of a receptor and direction to a bright light source, however, nowhere does Resnikoff et al. teach or suggest further defining an active and passive zone. Again, Resnikoff et al. is a calibration apparatus and method wherein the inventors are concerned with correct matching of a “dark spot” on a matrix relative to a user’s eye’s actual location and the location of the bright light source. Resnikoff et al. is not concerned with the problem discussed by the Applicants. Thus, per the logic in Eibel Process Co., a *prima facie* case of obviousness using the references of Resnikoff et al. ‘703 in view of Kan ‘705 is not established.

Therefore, for the above reasons either alone or in any combination, Applicants respectfully request reconsideration of the §103(a) rejection of currently amended Claim 51.

Miscellaneous Claim Amendments

Claims 13, 16-18, and 20 have been amended for proper antecedent basis. Thus, these amendments are purely clerical in nature and have not been made to overcome any prior art.

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Summary

In summary, Applicants now therefore respectfully request that the application presently stands in condition for allowance.

Respectfully submitted,

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